

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 201343851
Issue No.: 3000, 5100, 6015
Case No.: [REDACTED]
Hearing Date: May 28, 2013
County: Oakland DHS (04)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on May 28, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUES

The first issue is whether DHS resolved Claimant's Food Assistance Program (FAP) dispute.

The second issue is whether DHS properly processed Claimant's State Emergency Relief (SER) application.

The third issue is whether DHS properly terminated Claimant's Child Development and Care (CDC) benefit eligibility.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing FAP and CDC benefit recipient.
2. On 3/21/13, DHS mailed Claimant a Verification Checklist (VCL) requesting various documents, one of which was a Child Care Education Verification (DHS-4578).

3. On 4/10/13, Claimant applied for SER assistance for an electricity account arrearage.
4. On 4/19/13, DHS denied terminated Claimant's CDC benefits, effective 4/21/13, due to an alleged failure to verify an ongoing need for CDC benefits.
5. On 4/19/13, DHS denied Claimant's SER application due to Claimant allegedly having no threat of shut-off to electric service.
6. On 4/25/13, Claimant requested a hearing to dispute the following:
 - a. a failure by DHS to issue a FAP benefit supplement from 4/2012;
 - b. termination of CDC benefits, effective 4/21/13; and
 - c. denial of SER application for electric service.
7. Claimant conceded that DHS resolved the FAP benefit dispute prior to the date of administrative hearing.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp Program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant requested a hearing, in part, due to a failure by DHS to issue her FAP benefits for the month of 4/2012. It was not disputed that DHS issued \$222 in FAP benefits to Claimant on 5/13/13 as a supplement for the benefit month of 4/2012. Claimant testified that the supplement satisfied her benefit dispute and that she no longer requires an administrative remedy concerning FAP benefits. Without a FAP benefit dispute, there is no purpose for an administrative hearing to address the issue.

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by, 1999 AC, Rule 400.7001 through Rule 400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

Claimant also requested a hearing to dispute a DHS denial of an SER application requesting assistance with payment of an energy account, specifically for electricity. When the group's heat or electric service for their current residence is in threat of shutoff or is already shut off and must be restored, payment may be authorized to the enrolled provider. ERM 301 (2/2013), p. 1. DHS is to verify actual or threatened shutoff or the need for reconnection of natural gas or electricity, by contacting the energy company. *Id.*, p. 7.

DHS conceded that they wrongly interpreted verification that Claimant's gas/heat service was not in shut-off status to Claimant's electrical account. Despite the concession, DHS contended that Claimant ended up resolving the emergency without their assistance.

It was not disputed that Claimant made a payment to her electricity provider on an unspecified date in late 4/2013 to halt the shut-off threat. When DHS reprocessed the SER application, Claimant no longer had an emergency and therefore, was no longer eligible to receive the SER.

The SER standard of promptness is 10 calendar days, beginning with the date the signed SER application is received in the local office. ERM (8/2012), p. 5. This policy is strong evidence that DHS is bound to look at Claimant's SER eligibility only from the date of application until through the tenth day following application. It was not disputed that Claimant's SER payment occurred sometime after the 11th day of her SER application. Thus, Claimant had an emergency at the time she applied for an SER and through the date that DHS should have correctly processed her application.

To allow DHS to utilize a longer timeframe to determine a client's SER eligibility would allow DHS to benefit from their own failures. For example, if the denial of Claimant's SER application is upheld because Claimant eventually resolved her emergency before DHS corrected their error, then DHS would be rewarded for not following their own processing standards. Such an outcome would be truly unfair for Claimant. It is found that DHS standard of promptness was implemented to prevent such an outcome. Based on the presented evidence, it is found that DHS improperly denied Claimant's SER application.

The Child Development and Care (CDC) program was established by authority of the Social Security Act and the Child Care and Development Block Grant Act. The Department of Education (MDE) administers the program and sets rates and eligibility criteria. The Department of Health and Human Services (HHS) administers the program on the federal level. The Department of Human Services (DHS) is responsible for eligibility determination for the CDC program. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Each parent/substitute parent of the child needing care must have a valid need reason during the time child care is requested. BEM 703 (10/2012), p. 3. Each need reason must be verified. *Id.* It was not disputed that Claimant needed CDC so that she could attend school.

It was not disputed that DHS mailed Claimant a VCL on 3/21/13 requesting proof of Claimant's school obligations. It was also not disputed that DHS mailed Claimant a

DHS-4578 (Child Care Education Verification), a DHS-designed form created for the purpose of verifying school attendance when used as a basis for CDC.

DHS is to use the DHS-3503, Verification Checklist to request verification. BAM 130 (5/2012), pp. 2-3. DHS must give clients at least ten days to submit verifications. *Id.* DHS must tell the client what verification is required, how to obtain it, and the due date. *Id.* at 2. For CDC benefits, DHS is to send a negative action notice when:

- the client indicates refusal to provide a verification, or
- the time period given has elapsed and the client has not made a reasonable effort to provide it. (*Id.*, p. 5.)

It was not disputed that DHS initiated termination of Claimant's CDC eligibility on 4/19/13. Claimant's specialist testified that she did not receive a copy of Claimant's need for CDC until 5/2/13, a date too late to continue Claimant's eligibility. Claimant testified that she returned a DHS-4578 on three different occasions, the third time being 5/3/13. Claimant stated she signed the drop box log when she submitted the DHS-4578 in 3/2013. Claimant stated that she distinctly remembered giving requested documentation to her specialist's supervisor on 4/19/13 at a pre-hearing conference. Claimant also testified that she had her school complete the form on each occasion because of a change in her school hours. Claimant's testimony was consistent and sufficiently credible that it was deemed that the drop box log did not need to be checked to verify Claimant's signature. Based on the presented evidence, it is found that Claimant timely returned a DHS-4578 to DHS. Accordingly, the CDC termination was improper.

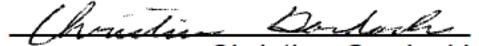
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that there is no dispute concerning FAP benefit eligibility. Pursuant to MAC R 400.906(1), Claimant's hearing request is PARTIALLY DISMISSED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for SER benefits. It is further found that DHS improperly terminated Claimant's CDC benefit eligibility. It is ordered that DHS:

- (1) reinstate Claimant's CDC benefit eligibility, effective 4/21/13, subject to the finding that Claimant timely verified her need for CDC benefits by verifying her education obligations;
- (2) reinstate Claimant's SER application dated 4/10/13 requesting payment for an electricity account arrearage;
- (3) process Claimant's SER application subject to the finding that DHS is to base Claimant's SER eligibility only on her circumstances for the period of 4/10/13-4/20/13.

The actions taken by DHS are REVERSED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 6/6/2013

Date Mailed: 6/6/2013

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

